

Honorable ROBERT J. BRYAN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

Nathen Barton,

Plaintiff

v.

Serve All, Help All, Inc.

and

John Doe 1-10

Defendant(s).

CASE NO. 3:21-CV-05338-RJB

MOTION TO COMPEL

NOTED FOR DECEMBER 16,  
2022

Plaintiff Nathen Barton replies to Dkt 103. First, he sympathizes with Opposing Counsel's current medical situation and trusts the Court is experienced in how to handle it.

Something needs to be done. The documents were to be turned over in October.

**DONNA GIBSON** <donna@donnagibsonlaw.com>  
To: Nathen Barton <farmersbranch2014@gmail.com>

Wed, Oct 19, 2022 at 6:20 AM

My client is providing updated answers. Will have them to you later today, hopefully

On October 20th Gibson identified she needed a response from *one more* person.

**DONNA GIBSON** <donna@donnagibsonlaw.com>  
To: Nathen Barton <farmersbranch2014@gmail.com>

Thu, Oct 20, 2022 at 8:13 AM

Waiting for responses from one more person and then I will send over updates. My plane leaves this afternoon .

On October 21st Gibson identified she *had* documents. But she didn't have any to share with Plaintiff. This continued on for weeks and week.

**DONNA GIBSON** <donna@donnagibsonlaw.com> Fri, Oct 21, 2022 at 1:08 PM  
To: Nathen Barton <farmersbranch2014@gmail.com>

Great. Ignore the text I just sent you.  
I guess I get to enjoy my first day of vacation.  
I will, however, get you the info from SAHA that I have so far, now that I'm not finishing this MSJ.

The two sides had a call.

**Nathen Barton** <farmersbranch2014@gmail.com> Thu, Nov 17, 2022 at 10:44 AM  
To: DONNA GIBSON <donna@donnagibsonlaw.com>

No, we need a call. How many times have I been promised that I will actually be sent the documents? And I want to make sure we address every issue in the document I emailed, and make sure you have an opportunity to understand anything you have a question on.

Nathen

During the call Gibson then denied having *any* documents but said she would get them on November 28 and have them to Plaintiff on November 29<sup>th</sup>. Having little speedy recourse, Plaintiff waited.

**Phone call**

**DONNA GIBSON** <donna@donnagibsonlaw.com> Thu, Nov 17, 2022 at 10:47 AM  
To: Nathen Barton <farmersbranch2014@gmail.com>

I am making my best efforts and I explained in my declaration what is occurring. We can have a call if you insist but that's what I will tell you. Or better yet. I will have it to you by Nov 29<sup>th</sup>  
[Quoted text hidden]

On the 29<sup>th</sup> Gibson appeared to have things and promised documents the next day.

**DONNA GIBSON** <donna@donnagibsonlaw.com> Tue, Nov 29, 2022 at 12:48 PM  
To: Nathen Barton <farmersbranch2014@gmail.com>

I have documents, declarations to put together and amended answers. I just got back -- plane delays due to weather, etc.  
I should have the bulk of it to you tomorrow.

The next day Gibson asked Plaintiff his preference between redaction and a protective order. Gibson didn't say that redaction had a large time penalty. Plaintiff chose redaction because he doesn't want other people's personal information and future claims of impropriety.

**DONNA GIBSON** <donna@donnagibsonlaw.com>  
To: Nathen Barton <farmersbranch2014@gmail.com>

Wed, Nov 30, 2022 at 5:18 PM

My client is concerned that many spreadsheets, etc contain information on other people. I can either redact everything or we can reach an agreement as to the documents -- filed under seal if filing, or something. Which is your preference?

**Nathen Barton** <farmersbranch2014@gmail.com>  
To: DONNA GIBSON <donna@donnagibsonlaw.com>

Wed, Nov 30, 2022 at 5:50 PM

Hello, please redact.  
[Quoted text hidden]

On December 2<sup>nd</sup>, she promised they would be delivered by "Monday". It is true that she didn't disclose which Monday, but the next Monday would be December 5, 2022.

**DONNA GIBSON** <donna@donnagibsonlaw.com>  
To: Nathen Barton <farmersbranch2014@gmail.com>

Fri, Dec 2, 2022 at 12:43 AM

I am reacting several hundred pages. It takes a bit. You WILL Have everything by Monday.

**DONNA GIBSON** <donna@donnagibsonlaw.com>  
To: Nathen Barton <farmersbranch2014@gmail.com>

Fri, Dec 2, 2022 at 4:21 PM

I will be finishing the redaction and numbering. I think I am on page 200 and something. I need to slow down, dr's orders. Though I said you WILL receive everything by Monday, I will not be working at a stressful pace. I will have it to you. You wanted documents redacted and that is tedious.

Monday, December 5 came and went without Plaintiff receiving a single document.

Monday, December 12 came and went without Plaintiff receiving a single document.

It is the middle of the afternoon on Friday, December 16, 2022 and Plaintiff has not received a single document.

### Conclusion

1 Plaintiff does not know the true state of Gibson's health. It does seem she has the ability  
2 and duty to apprise the Court of her own health situation and ask the Court for a new schedule or  
3 guidance or something else.

4 What hasn't worked for some time is Opposing Counsel giving a date, failing to deliver,  
5 new excuse, new date, another failure to deliver, rinse and repeat, that has eaten up two and a  
6 half months of time. Plaintiff in good faith tried to wait and work it out but at this point the only  
7 date in play is "requested time frame of 10 days after the entry of the order should allows [sic]  
8 counsel more than enough time to respond".

9 Even if the documents and responses had been delivered on today, there is no longer time  
10 to submit a set of Admissions before the close of discovery.

11 The previous request to amend the schedule was due to the Defendants failing to provide  
12 discovery, for a variety of reasons. It seems the schedule will need another amending.

13 As Gibson's response appears resigned to not deliver the documents without an Order,  
14 Plaintiff suggests the discovery deadline be moved to the date SAHA is ordered to deliver all the  
15 missing discovery responses, plus 55 days.

16 This will allow Plaintiff to review the documents, create a set of useful admissions, wait  
17 the 30 days, and have some days left to resolve issues with the responses.

18  
19  
20  
21 DATED: December 16, 2022

/s/ Nathen Barton  
Nathen Barton  
4618 NW 11<sup>th</sup> Cir  
Camas WA 98607  
(469) 347-2139

FarmersBranch2014@gmail.com

**CERTIFICATE OF SERVICE**

I hereby certify that on December 16, 2022, I electronically filed the foregoing with the Clerk of the Court using the Court's CM/ECF System, which will automatically generate a Notice of Electronic Filing to all parties in the case who are registered users of the CM/ECF System, which includes the Defendant. The said Notice of Electronic Filing specifically identifies recipients of electronic notice.

/s/ Nathen Barton

Nathen Barton